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EXAMINER

TRAN, HAI V

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/920,961

**Applicant(s)**

LYDA, EDWIN

**Examiner**

Hai Tran

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2006 and 17 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 8-12, 16 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 13-15, 17-21, 23-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Response to Arguments***

Applicant's arguments filed 08/22/2006 have been fully considered but they are not persuasive.

Applicant argues, (see applicant's remark, page 7, lines 18-22), "...Nowhere in the specification does applicant describe having the response device receive data or signals to which the user enters a response..." and (see applicant's remark page 8, lines 4-9), "...Without receiving any incoming signal or viewing any data on a display, the user can input data into the response device by selecting one of the keys in response to a presenter's question arising in programming received apart from the device. Fig. 2 shows a calculator-like display, which can show the data the user is inputting; however, the application does not describe using a display data to view incoming data because the response device does not receive display data which the user will view and response to."

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the application does not describe using a display data to view incoming data or the response device does not receive display data which the user will view and response to) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Moreover, since applicant argues around the newly amended limitation in independent claims 1, 13, and 17; therefore, Applicant argument is moot.

Note: amended limitation "... the mechanism operating without receiving signals eliciting a response by the user" ONLY requires the user input mechanism operates without receiving signals eliciting a response by the user. The amended claim's limitation does NOT exclude that the response device receiving display data (signals) NOT eliciting a response by the user, in which the user able to view. The amended claim further does not require the response device does Not receive any signals.

Claim 2, in response to Applicant argument (page 13, lines 18-21), "In the example cited, Ferris discloses an audience member 'responding' to the PAD data shown on his device. Because 'response' are always to PAD on the display, any response entered by an audience member which is not related to the PAD cannot be processed!"

In response, the Examiner respectfully disagrees with Applicant because again, Applicant 's argument, i.e., "any response entered by an audience member which is not related to the PAD cannot be processed!" is not recited in the claim! Therefore, Applicant argument is moot.

Claim 20, in response to Applicant argument (page 14, lines 14-17), the Examiner respectfully disagrees with Applicant and further asserts that Ferris meets all limitations presented in claim 20, see previous Office Action.

Claim 3, in response to Applicant argument (page 15, lines 9-13), the Examiner respectfully disagrees with Applicant 's argument because Applicant does not persuasively explain why the teaching of Dodson would not be feasible. Thus, Applicant 's argument is not convincing.

Claim 4, Applicant argument (page 16, lines 4-8), "...the proposed modification is not likely. Therefore, the Examiner's taking an Official Notice of the use of modems is not only irrelevant to the present invention, it is also not persuasive."

In response, the Examiner respectfully disagrees with Applicant because, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Examiner cites Lazar et al. (US 6477508; Fig. 1B; Col. 10, lines 55-58) to support the Official Notice taken in the previous Office action.

Claims 5 and 6, Applicant argues (page 16, lines 9-13), "Nothing in Ferris teaches or suggests use of its device with an Internet protocol system, and therefore, his rejection on the basis of Official Notice should be set aside."

In response, the Examiner respectfully disagrees with Applicant because Ferris clearly discloses the use of Internet (page 14, last paragraph-see previous Office action), thus the Office Action taken is proper in view of the use of an integrated wireless modem within the device. To support it, the Examiner cites Van Ee (US 6466203; Col. 4, lines 65-Col. 5, lines 20).

Claims 19 and 25, Applicant argues (page 17, lines 4-12), "...Ferris does describe having users log on the keypad device (at page 25, 3<sup>rd</sup> and 4<sup>th</sup> paragraphs). Once again, applicant is at loss to understand the analogy. The paragraphs he cites in Ferris merely describe how the user 'unlocks' the device with a PIN, which can be preset for multiple users. This does not contain a suggestion that a user logs into a remote computer system before inputting responses."

In response, the Examiner respectfully disagrees with Applicant because Applicant fails again and again to carefully review the Office Action. The Examiner clearly indicates (previous Office action page 17) that "Claims 19 and 25, Ferris discloses the users log on the keypad device (page 25, 3<sup>rd</sup> and 4<sup>th</sup> paragraph) and see page 8, 3<sup>rd</sup> paragraph in which Ferris suggests that the system has some type of logging interaction in a user database." The Examiner cites (Ferris; page 8, 3<sup>rd</sup> paragraph) "This may involve initiating a transaction on behalf of the user, possibly via

an Internet gateway to the appropriate sponsoring party... logging the interaction in a user database, ..." As such, the suggestion of Ferris and the combination with Lewis is proper.

### ***Response to Applicant Communication***

Applicant communication dated 10/17/2006 is noted.

Since Applicant has appointed an attorney or agent to conduct all business before the Patent and Trademark Office. Double correspondence with an applicant and applicant's attorney or agent will not be undertaken. Accordingly, applicant is required to conduct all future correspondence with this Office through the attorney or agent of record. See 37 CFR 1.33.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-7, 13-15, 17-22, and 23-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Added limitation “the mechanism operating without receiving signals eliciting a response by the user” in claim 1 and “the mechanism operating without receiving signals eliciting a response by the audience member” in claim 13 and “the device generating without receiving signals eliciting a response by a user” in claim 20 are not described in the Applicant’s specification because Applicant’s specification page 4, lines 11-15, clearly indicates that the presenter will solicit a response ...on something the presenter has delivered. Moreover, Applicant’s specification further indicates that Applicant’s mechanism clearly **does** receive signals eliciting a response by the user see Applicant’s specification page 9, lines 1-5, “...Another indicator lets a user know when the response device has received information that the user may wish to view.”

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-2, 13-15, 17, and 20-21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferris et al. (WO 99/04568).

Claim 1, Ferris discloses an electronic response device (Fig. 3, el. 417; Fig. 4-6) other than a personal computer, the response device configured to allow user to send data over a standard communication system (see Fig. 3), in response to a program received apart from the responsive device (the remote control device is



used to respond to programming/"television programming show", i.e. tool show with option to buy a product, received apart from the response device, for example Ferris' s Fig. 4; page 23) , the response device comprising:

a user input mechanism for entry of user input and responses (Fig. 5, el. 622 and Fig. 2L, page 27, lines 13-19), the mechanism operating without receiving signals eliciting a response by the user (broadly reads on Ferris' s response device able to receive display data (signals) that able user to elicit or Not to elicit a response by the user, for example, the user is able to view the received display information and the user either to choose or NOT to choose to response to received display data (signals) by disabling or by NOT disabling the notification feature (page 20, lines 10-14) and/or locking the device (page 22, lines 20-24), as desired. As such, Ferris' s device clearly encompasses the amended claimed limitation because in one embodiment in which the user disables the notification features and locks the device, the user is NOT able to response to the receiving display data because the receiving display data is not able to elicit a response by the user, as such the receiving display data is NOT a receiving signals eliciting a response by the user. Therefore, Ferris' s remote control operates without receiving signals eliciting a response by the user).

means for requiring (input controller 611) the user's input of a program identifier code for the program received apart from the responsive device (the user able to interact with program-associated material as shown in Fig. 2A wherein the

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user must input "product/vendor code" in order to purchase a product, see Fig. 2L, page 27, lines 13-19; therefore, Ferris clearly respond to a program received apart from the response device);

means for providing a user identifier code, the means selected from the group consisting of having the identifier code associated with the response device and having the user input the user identifier code (reads on Ferris' s HUUID represents User Identification associated with the remote control device; see page 25; 4<sup>th</sup> paragraph; Fig. 2K).

a central processing unit (microprocessor 607) for correlating the responses the user has entered into the user input mechanism to the program identifier code and for processing the program identifier code, the user identifier code, and responses the user has entered into the user input mechanism (reads on: by responding to the "product/vendor code" input through the handheld device on the basis of the information inputted by the user, the inputted "product/vendor code" is transmitted back to the central control station along with HUUID (page 13, 3<sup>rd</sup> paragraph). In doing so, the inputted "product/vendor code" constitutes an input from the user of a program identifier code (PADUID) for the particular programming event (displays PAD) in which the user is responding along with the user identifier code associated with the remote device (HUUID); see page 13, 3<sup>rd</sup> paragraph. )

a power source (inherently must have); and

a transmitter connected to the CPU (603 and 614).

Claim 2, Ferris further discloses wherein the input mechanism is selected from the group consisting of a keypad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5<sup>th</sup> paragraph);

the transmitter comprises a two-way paging device (Fig. 5, el. 603; page 18; 2<sup>nd</sup> paragraph); and the communication system comprises a two-way paging system (page 12; 3<sup>rd</sup> paragraph).

Claim 13, method claim is analyzed with respect to apparatus claim 1, Ferris further discloses a method for receiving and processing responses to a program selected from the group consisting of radio broadcast, a television broadcast...(page 10, 8<sup>th</sup> paragraph) and collecting the response data at a central location; correlating the program identifier code to the responses; processing the response date (page 15, 1<sup>st</sup> paragraph; page 24, 1<sup>st</sup>-3<sup>rd</sup> paragraph).

Claim 14, Ferris further discloses sending the processed data to a presenter of the program for viewing (page 15, 1<sup>st</sup> paragraph and page 24, 3<sup>rd</sup> paragraph).

Claim 15, Ferris further discloses having the presenter of the program respond to the audience center (interactive story line; page 9, 4<sup>th</sup> paragraph).

Claim 17 is analyzed with respect to claim 2.

Claim 20, Ferris discloses a system for receiving and processing responses to a program selected from the group consisting of radio broadcast, a television broadcast...(page 10, 8<sup>th</sup> paragraph) comprising;

Providing a program identifier (PADUID) for a program being presented (page 13, 3<sup>rd</sup> paragraph);

Providing a user input device other than a personal computer (Fig. 3, el. 417; Fig. 4-6), the device generating without receiving signals eliciting a response by a user (broadly reads on Ferris' s response device able to receive display data (signals) that able user to elicit or Not to elicit a response by the user, for example, the user is able to view the received display information and the user either to choose or NOT to choose to response to received display data (signals) by disabling or by NOT disabling the notification feature (page 20, lines 10-14) and/or locking the device (page 22, lines 20-24), as desired. As such, Ferris 's device clearly encompasses the amended claimed limitation because in one embodiment in which the user disables the notification features and locks the device, the user is NOT able to response to the receiving display data because the receiving display data is not able to elicit a response by the user, as such the receiving display data is NOT a receiving signals eliciting a response by a user. Therefore, Ferris' s remote control operates without receiving signals eliciting a response by a user).

Having an audience member input the a program identifier code (PADUID) into the user input device (Ferris' s PAD constitutes an offering/object displayable to user and requires user to express interaction with the PAD through the handheld

device on the basis of the information so displayed. By interacting with the presented PAD, the selected PAD is transmitted back to the central control station along with HUUID and PADUID (page 13, 3<sup>rd</sup> paragraph). In doing so, the selected PAD includes HUUID and PADUID constitutes an input from the user of a program identifier code (PADUID) for the particular programming event (displays PAD) in which the user is responding along with the user identifier code associated with the remote device (HUUID); see page 13, 3<sup>rd</sup> paragraph);

Having an audience member input response into the user input device (Fig. 5, el. 622; page 15, 1<sup>st</sup> and 5<sup>th</sup> paragraph);

Transmitting the program identifier and the response data associated with a user identifier over a standard communication system (page 12; 3<sup>rd</sup> paragraph);

Collecting, correlating and processing the program identifier and the responses (page 15, 1<sup>st</sup> paragraph; page 24, 1<sup>st</sup>-3<sup>rd</sup> paragraph);

Routing the responses to a program presenter (interactive story line; page 9, 4<sup>th</sup> paragraph).

Claim 21, Ferris further discloses having the presenter respond to the audience member (interactive story line; page 9, 4<sup>th</sup> paragraph).

Claim 23 is analyzed with respect to claim 2.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris et al. (WO 99/04568) in view of Dobson (US 6704317).

Claim 3, Ferris further discloses wherein the input mechanism is selected from the group consisting of a keypad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5<sup>th</sup> paragraph);

Ferris does not clearly disclose the transmitter is configured to send data burst over standard telephone lines; and the communicating system comprises a plain old telephone system.

Dobson discloses the transmitter is configured to send data burst over standard telephone lines; and the communicating system comprises a plain old telephone system (Col. 10, lines 25-33); Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris to have Ferris' s transmitter configured to send data burst over standard telephone lines; and the communicating system comprises a plain old telephone system, as taught by Dobson, so that any communication device on the network may transmit

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data to the public network by way of multi-point transceiver and the POTS modem transceiver (Col. 4, lines 1-6).

3. Claims 4, 5, 6, 18 and 24 are rejected under 35 U.S.C. 103(a) as being obvious over Ferris et al. (WO 99/04568).

Claim 4, Ferris discloses wherein the input mechanism is selected from the group consisting of a keypad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5<sup>th</sup> paragraph); Ferris further discloses the outbound PAD could be transmitted using 'data-hiding' technology associated with a response to the program over any types of communication network (pages 12-14).

Ferris does not disclose the transmitter is configured to call telephone numbers each of the telephones numbers having been associated with a particular response to the program; and the communication system comprises a plain old telephone system.

Official Notice is taken that having a remote control with integrated modem with associated call number for communication purpose using of a plain old telephone system is notoriously well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris to have an integrated modem built in the handheld device so to provide to user an alternative way to communicate with the service provider beside of the two-way paging network.

Claims 5 and 6 Ferris further disclose wherein the input mechanism is selected from the group consisting of keypad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5<sup>th</sup> paragraph) and the request might be sent over the Internet (see page 14; 4<sup>th</sup>/last paragraph).

Ferris does not disclose the transmitter comprises a wireless Internet protocol device, and the communication system comprises Internet protocol systems; wherein the Internet protocol system further communicates with a telecommunication system.

Official Notice is taken that having a remote control with integrated wireless modem for communication purpose through Internet in which the Internet network is in communication with a telecommunication network is notoriously well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris to have an integrated wireless modem built in the handheld device so to provide to user an alternative way to communicate with the service provider through Internet network beside of the two-way paging network.

Claim 18 is analyzed with respect to claim 4.

Claim 24 is analyzed with respect to claim 4.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris et al. (WO 99/04568) in view of Yoshinobu et al. (US 5721584).



Claim 7, Ferris shows activities (alert with flashing led 10) during connectivity (page 22, 6<sup>th</sup> paragraph) during communication.

Ferris does not clearly disclose an indicator for indicating the connection status of the electronic response device to a communication system;

Yoshinobu discloses an indicator for indicating the connection status of the electronic response device to a communication system (Col. 12, lines 22-30 and col. 18, lines 1-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris with Yoshinobu so to provide to user a way to detect the condition (Connect or Not connect) of the communication process between two communication devices.

5. Claims 19 and 25 are rejected under 35 U.S.C. 103(a) as unpatentable over Ferris et al. in view of Lewis et al (US 5303042).

Claims 19 and 25, Ferris discloses the users log on the keypad device (page 25, 3<sup>rd</sup> and 4<sup>th</sup> paragraph) and **see page 8, 3<sup>rd</sup> paragraph** in which Ferris suggests that the system has some type of logging the interaction in a user database.

Ferris does not clearly disclose the audience member log into a remote computer system before inputting data into the user input device;

Lewis discloses the audience member log into a remote computer system before inputting data into the user input device. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

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modify Ferris with Lewis so that the remote computer able to track all viewer currently log on the system (Col. 8, lines 25-45).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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PRIMARY EXAMINER